

1 **Issue 2: Failure to maintain records (RSA 397-A:11)**

2 **Issue 3: Failure to license branches (RSA 397-A:5)**

3 **Issue 4: Failure to report significant event (BAN 2407.01)**

4 **Issue 5: Failure to maintain financial stability (RSA 397-A:17 I(j))**

5
6 Accordingly, an adjudicative proceeding shall be commenced pursuant to
7 541-A:31 and Chapter 200 of the Department's rules (NH Code of
8 Administrative Rules BAN 200) for the purpose of permitting the Respondent to
9 show compliance with RSA 397-A and the Rules adopted thereunder.

10 Each party has the right to have an attorney present to represent the
11 party at the party's expense, or may represent itself.

12 THEREFORE, IT IS ORDERED, that the Respondent appear before the New
13 Hampshire Banking Department on **May 25, 2007 at 8:30 am**, at the Department's
14 offices at 64B Old Suncook Road, Concord, New Hampshire, for the purpose of
15 participating in an adjudicative proceeding, at which time the Respondent
16 will have the opportunity to demonstrate why the cease and desist order
17 should not become permanent; and

18 IT IS FURTHER ORDERED, that if the Respondent elects to be represented
19 by Counsel, said Counsel shall file notice of appearance at the earliest
20 possible date; and

21 IT IS FURTHER ORDERED, that James Shepard, Staff Attorney, New
22 Hampshire Banking Department is designated as Hearing Counsel in this matter
23 with authority to represent the public interest within the scope of the
24 Department's authority. Hearing Counsel shall have the status of a party to
25 this proceeding; and

IT IS FURTHER ORDERED, that the Commissioner shall designate a member
of the Department who shall serve as the Presiding Officer in this proceeding
and shall issue a RECOMMENDED DECISION in this matter which shall be
reviewed and approved, disapproved or modified by the Bank Commissioner; and

1 IT IS FURTHER ORDERED, that any proposed exhibits shall be pre-marked,
2 for identification only, and filed with the Department and provided to the
3 opposing party as soon as possible. Hearing Counsel shall pre-mark the
4 Department's exhibits with Arabic numbers. The Respondents shall pre-mark
5 exhibits with capital letters. An index/list of exhibits providing a brief
6 description of each exhibit with its corresponding pre-marked number or
7 letter shall be filed by both parties simultaneous with the filing of
8 exhibits; and

9 IT IS FURTHER ORDERED, that the parties shall exchange a list of all
10 exhibits and witnesses to be called at the hearing with a brief summary at
11 the hearing, and shall at the same time file a copy of their respective lists
12 with the Presiding Officer; and

13 IT IS FURTHER ORDERED, that all periods referenced in this notice shall
14 be calendar days. If the last day of the period so computed falls on a
15 Saturday, Sunday, or legal holiday, then the time period shall be extended to
16 include the first business day that is not a Saturday, Sunday, or legal
17 holiday; and

18 IT IS FURTHER ORDERED, that the Department shall have the burden of
19 setting forth a *prima facie* case, then the Respondents shall have the burden
20 of showing compliance with applicable law by a preponderance of the evidence;
21

22 IT IS FURTHER ORDERED, that Respondents' failure to appear at the time,
23 date, and place specified may result in the hearing being held *in absentia*
24 and/or default ruling in favor of the Department, without further notice or
25 opportunity to be heard; and

IT IS FURTHER ORDERED, that the entirety of all oral proceedings shall
be recorded verbatim by the Banking Department. Upon request of any party,
or upon the Presiding Officer's own initiative, such record shall be
transcribed by a certified court reporter designated by the Presiding
Officer, and that all costs shall be borne solely by the requesting party.

1 Any such request shall be submitted in writing to the Presiding Officer prior
2 to hearing.

3 IT IS FURTHER ORDERED, that all documents shall be filed with the
4 Presiding Officer in the form of an original and one (1) copy and shall bear a
5 certification that a copy is being delivered to Hearing Counsel and any other
6 parties to this matter in accordance with NH Code of Administrative Rules Ban
7 204.08. All documents shall be filed by mailing or delivering them to the New
8 Hampshire Banking Department, ATTN: Presiding Officer 07-069, 64-B Old Suncook
9 Road, Concord, NH 03301. Filing by facsimile or electronic transmission shall
not be accepted; and

10 IT IS FURTHER ORDERED, that the parties may submit Proposed Orders,
11 which shall include findings of fact and conclusions of law, separately
12 stated, no later than ten (10) days following conclusion of the hearing(s) in
13 this matter; and

14 IT IS FURTHER ORDERED, that routine procedural inquiries may be made by
15 telephoning Maryam Torben-Desfosses at (603)-271-3561, but all other
16 communications with the Presiding Officer and with the Department shall be in
17 writing and shall be filed as provided above. *Ex parte* communications are
forbidden by statute; and

18 IT IS FURTHER ORDERED, that a copy of this Notice of hearing shall be
19 mailed to Counsel for Respondent licensee and that a copy shall also be
20 delivered to all other named Respondents, James Shepard, Hearing Counsel, and
21 to the Presiding Officer at the New Hampshire Banking Department.

22 **SO ORDERED,**

23
24 /s/
Peter C. Hildreth
Commissioner
State of New Hampshire
Banking Department

25 5/22/07
Date